

certain illnesses and conditions to patients who are not Medicare beneficiaries, it need not furnish such treatment to Medicare beneficiaries.

§ 405.2436 Termination of agreement.

(a) *Termination by Federally qualified health center.* The Federally qualified health center may terminate its agreement by—

(1) Filing with CMS a written notice stating its intention to terminate the agreement; and

(2) Notifying CMS of the date on which the Federally qualified health center requests that the termination take effect.

(b) *Effective date.* (1) Upon receiving a Federally qualified health center's notice of intention to terminate the agreement, CMS will set a date upon which the termination takes effect. This effective date may be—

(i) The date proposed by the Federally qualified health center in its notice of intention to terminate, if that date is acceptable to CMS; or

(ii) Except as specified in paragraph (2) of this section, a date set by CMS, which is no later than 6 months after the date CMS receives the Federally qualified health center's notice of intention to terminate.

(2) The effective date of termination may be less than 6 months following CMS's receipt of the Federally qualified health center's notice of intention to terminate if CMS determines that termination on such a date would not—

(i) Unduly disrupt the furnishing of Federally qualified health center services to the community; or

(ii) Otherwise interfere with the effective and efficient administration of the Medicare program.

(3) The termination is effective at the end of the last day of business as a Federally qualified health center.

(c) *Termination by CMS.* (1) CMS may terminate an agreement with a Federally qualified health center if it finds that the Federally qualified health center—

(i) No longer meets the requirements specified in this subpart; or

(ii) Is not in substantial compliance with—

(A) The provisions of the agreement; or

(B) The requirements of this subpart, any other applicable regulations of this part, or any applicable provisions of title XVIII of the Act.

(2) *Notice by CMS.* CMS will notify the Federally qualified health center in writing of its intention to terminate an agreement at least 15 days before the effective date stated in the written notice.

(3) *Appeal.* A Federally qualified health center may appeal CMS's decision to terminate the agreement in accordance with part 498 of this chapter.

(d) *Effect of termination.* When a Federally qualified health center's agreement is terminated whether by the Federally qualified health center or CMS, payment will not be available for Federally qualified health center services furnished on or after the effective date of termination.

§ 405.2440 Conditions for reinstatement after termination by CMS.

When CMS has terminated an agreement with a Federally qualified health center, CMS will not enter into another agreement with the Federally qualified health center to participate in the Medicare program unless CMS—

(a) Finds that the reason for the termination no longer exists; and

(b) Is assured that the reason for the termination of the prior agreement will not recur.

§ 405.2442 Notice to the public.

(a) When the Federally qualified health center voluntarily terminates the agreement and an effective date is set for the termination, the Federally qualified health center must notify the public prior to a prospective effective date or on the actual day that business ceases, if no prospective date of termination has been set, through publication in at least one newspaper in general circulation in the area serviced by the Federally qualified health center of the—

(1) Effective date of termination of the provision of services; and

(2) Effect of termination of the agreement.

(b) When CMS terminates the agreement, CMS will notify the public through publication in at least one newspaper in general circulation in the

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Federally qualified health center's service area.

§ 405.2444 Change of ownership.

(a) *What constitutes change of ownership*—(1) *Incorporation*. The incorporation of an unincorporated FQHC constitutes change of ownership.

(2) *Merger*. The merger of the center corporation into another corporation, or the consolidation of two or more corporations, one of which is the center corporation, resulting in the creation of a new corporation, constitutes a change of ownership. (The merger of another corporation into the center corporation does not constitute change of ownership.)

(3) *Leasing*. The lease of all or part of an entity constitutes a change of ownership of the leased portion.

(b) *Notice to CMS*. A center which is contemplating or negotiating change of ownership must notify CMS.

(c) *Assignment of agreement*. When there is a change of ownership as specified in paragraph (a) of this section, the agreement with the existing center is automatically assigned to the new owner if it continues to meet the conditions to be a Federally qualified health center.

(d) *Conditions that apply to assigned agreements*. An assigned agreement is subject to all applicable statutes and regulations and to the terms and conditions under which it was originally issued including, but not limited to, the following:

(1) Compliance with applicable health and safety standards.

(2) Compliance with the ownership and financial interest disclosure requirements of part 420, subpart C of this subchapter.

§ 405.2446 Scope of services.

(a) For purposes of this section, the terms *rural health clinic* and *clinic* when they appear in the cross references in paragraph (b) of this section also mean Federally qualified health centers.

(b) FQHC services that are paid for under this subpart are outpatient services that include the following:

(1) Physician services specified in § 405.2412.

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(2) Services and supplies furnished as an incident to a physician's professional services, as specified in § 405.2413.

(3) Nurse practitioner or physician assistant services specified in § 405.2414.

(4) Services and supplies furnished as an incident to a nurse practitioner or physician assistant services, as specified in § 405.2415.

(5) Clinical psychologist and clinical social worker services specified in § 405.2450.

(6) Services and supplies furnished as an incident to a clinical psychologist or clinical social worker services, as specified in § 405.2452.

(7) Visiting nurse services specified in § 405.2416.

(8) Nurse-midwife services specified in § 405.2401.

(9) Preventive primary services specified in § 405.2448 of this subpart.

(c) Federally qualified health center services are covered when provided in outpatient settings only, including a patient's place of residence, which may be a skilled nursing facility or a nursing facility or other institution used as a patient's home.

(d) Federally qualified health center services are not covered in a hospital, as defined in section 1861(e)(1) of the Act.

[57 FR 24979, June 12, 1992, as amended at 61 FR 14657, Apr. 3, 1996]

§ 405.2448 Preventive primary services.

(a) Preventive primary services are those health services that—

(1) A center is required to provide as preventive primary health services under section 329, 330, and 340 of the Public Health Service Act;

(2) Are furnished by or under the direct supervision of a nurse practitioner, physician assistant, nurse midwife, specialized nurse practitioner, clinical psychologist, clinical social worker, or a physician;

(3) In the case of a service, are furnished by a member of the center's health care staff who is an employee of the center or by a physician under arrangements with the center; and

(4) Except as specifically provided in section 1861(s) of the Act, include only drugs and biologicals that cannot be self-administered.